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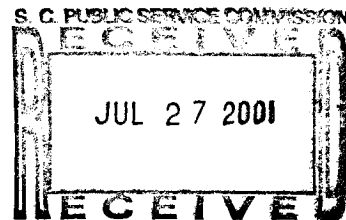
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L. Hunter Limbaugh  
State Director  
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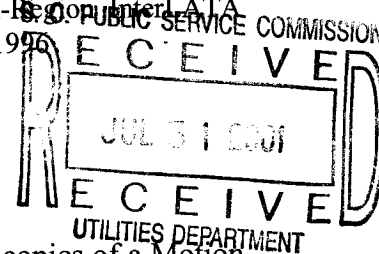
July 27, 2001

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Mr. Gary Walsh  
Executive Director  
South Carolina Public Service Commission  
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Columbia, South Carolina 29211



Re: Application of BellSouth Telecommunications, Inc. to Provide In-Region InterLATA  
Services Pursuant to Section 271 of the Telecommunications Act of 1996  
Docket No. 2001-209-C  
Our File No.: 255.169



Dear Mr. Walsh:

Attached for filing with the Commission are an original and seven (7) copies of a Motion on behalf of AT&T Communications of The Southern States, Inc. to Postpone the August 27, 2001 Hearing in the above-referenced matter. All parties of record are being served as indicated in the attached Certificate of Service.

If you have any questions or concerns regarding this filing, please do not hesitate to call.

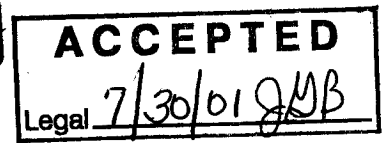
Best regards,

L. Hunter Limbaugh

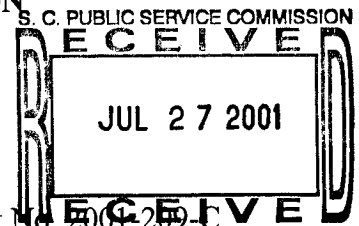
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cc: All parties of record

PAID  
7/30/01



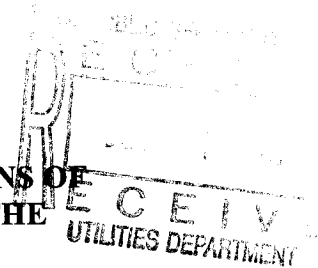
**BEFORE THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**



In re: Application of BellSouth Telecommunications, )  
Inc. To Provide In-Region InterLATA Service )  
Pursuant to Section 271 of the Telecommunications )  
Act of 1996. )

Docket No. 2001-209-C

**MOTION ON BEHALF OF AT&T COMMUNICATIONS OF  
THE SOUTHERN STATES, INC. TO POSTPONE THE  
AUGUST 27, 2001 HEARING**



On July 10, 2001, this Commission established a procedural schedule for Docket number 2001-209-C that included an August 27, 2001 hearing to address performance data and measures and information regarding the Section 271 process in Georgia and Florida.<sup>1</sup> Specifically, the Commission's Order encouraged the parties to provide "detailed arguments and analysis regarding the differences between the Georgia and Florida third-party testing and performance measures." (July 10 Order at 13.) AT&T Communications of the Southern States, Inc. ("AT&T") hereby moves to reschedule the August 27, 2001 hearing and proposes that the Commission issue a revised procedural schedule when more information from third-party testing in other states becomes available. As discussed in greater detail below, rescheduling of the August 27, 2001 hearing is warranted for several reasons:

- Third-party testing in Georgia and Florida is not complete. The Florida third-party Operational Support Systems ("OSS") test is not scheduled to conclude until early October. No final completion date for the Georgia third-party OSS test has been announced, and KPMG Consulting, Inc.

<sup>1</sup> See Order Granting Motion to Accept Copies on CD-ROM and Ruling On Motions to Reconsider Scheduling, Docket No. 2001-209-C (July 10, 2001) ("July 10 Order").

("KCI") has significant metrics testing to perform before its Georgia OSS testing is complete. Without the results of both third-party OSS tests, the South Carolina Commission will be deprived of key information necessary to evaluate BellSouth's compliance with the Telecommunications Act of 1996 ("Act").

- Performance measures are a critical way of determining whether BellSouth is complying with the Act. Yet, the current schedule does not allow sufficient time for CLECs and this Commission to analyze BellSouth's performance measurements and measurements reporting in South Carolina and Georgia or to provide sufficient data on which this Commission can base a Section 271 decision.

Moving ahead with the August 27 hearing is not an efficient use of this Commission's resources given the current status of various related proceedings. As discussed more fully below, other states within BellSouth's nine-state region have postponed consideration of third-party testing issues and other Section 271 proceedings pending the final results of the Georgia and Florida OSS testing. For example, on July 13, 2001, the Alabama Commission rescheduled its third-party test hearing until after the Georgia Commission issues its final Order because of the incomplete nature of the Georgia third-party test. This Commission should not be swayed by BellSouth to hold premature Section 271 proceedings. Moving ahead with the August 27 hearing as scheduled will have the practical effect of preventing the South Carolina Commission from using information necessary to conduct a reasoned evaluation of BellSouth's compliance with Section 271.

#### **I. THE CURRENT STATUS OF THIRD-PARTY TESTS MANDATES A POSTPONEMENT OF THE AUGUST 27 HEARING**

Complete results of comprehensive third-party testing will be extremely useful to this Commission as it determines whether BellSouth provides nondiscriminatory access to its OSS as required by the Act. The FCC has recognized that nondiscriminatory access to OSS functions is

a fundamental part of the evaluation of all of the § 271 checklist items.<sup>2</sup> Indeed, nondiscriminatory access to BellSouth's OSS is essential to Competitive Local Exchange Carriers' ("CLECs") ability to effectively compete in the local exchange market. Third-party testing in both Georgia and Florida is not yet complete. Accordingly, this Commission should defer its review of whether BellSouth provides nondiscriminatory access to its OSS.

**A. Georgia's Third-Party Test Is Not Complete And Key Aspects of the Proceedings Remain Unscheduled**

BellSouth has relied on the Georgia test to support its South Carolina Section 271 case. The Georgia Commission, however, has not made a final determination regarding whether BellSouth provides nondiscriminatory access to its OSS. Indeed, the Georgia Commission recently extended its § 271 proceedings by providing extra time for the submission of reply comments in the § 271 docket, because BellSouth had not reported sufficient performance data. These reply comments were filed on July 16, 2001.<sup>3</sup>

Additionally, KCI cannot yet prepare a full evaluation of BellSouth's OSS in Georgia because key testing areas are incomplete. For example, KCI has not been able to complete its evaluation of the adequacy of BellSouth's data collection and reporting processes. An additional hearing is planned in Georgia to explore the results of this evaluation. Under the current schedule, the metrics hearing will occur thirty (30) days after KCI files its Supplemental Third-

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<sup>2</sup> See Memorandum Opinion and Order, *In the Matter of Application By Bell Atlantic New York for Authorization under § 271 of the Communication Act to Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd. 3953 (F.C.C. Dec. 22, 1999) (No. CC99-295, FCC 99-404) ("Bell Atlantic New York Order"); see also Memorandum Opinion and Order, *In the Matter of Application by SBC Communications, Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a SouthWestern Bell Long Distance Pursuant to § 271 of the Telecommunications Act of 1996 to Provide In-Region InterLata Services in Texas*, 15 FCC Rcd. 18,354 (F.C.C. June 30, 2000) (No. CC 00-65, FCC 00-238) ("SWBT Texas Order").

<sup>3</sup> See Decision of the Georgia Public Service Commission, Administrative session, Docket No. 6863 (June 11, 2001). The date for comments was delayed because disaggregated data in accordance with the Georgia Commission's order would not be available until June 30.

Party Metrics Evaluation with the Commission,<sup>4</sup> but the exact date of expected completion of this work by KCI is unknown. The Georgia Commission has not yet set a date for this hearing.

Finally, the Section 271 review has slowed in Georgia because KCI has not completed a second audit, ordered by the Georgia Commission, regarding three months of BellSouth's performance measures data. This "second audit" is separate and apart from the "metrics evaluation" KCI must perform. The second audit consists of two parts: KCI's audit of BellSouth's SQM, which is not expected to be completed before September 28, 2001, and KCI's audit of BellSouth's remedy plan, which is not expected to be complete until December 28, 2001, at the earliest. Accordingly, the data for production of any reports or findings by KCI in Georgia regarding performance measures do not yet exist.

**B. Florida's Third-Party Test Is Ongoing And Has Identified Significant Exceptions That Remain Unresolved**

The Florida third-party test also is ongoing, and KCI has announced that it does not expect to complete its OSS testing until early October. The Florida test is uncovering exceptions in areas not evaluated in the Georgia test as well as exceptions in areas in which KCI closed exceptions in Georgia.<sup>5</sup>

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<sup>4</sup> See Second Procedural and Scheduling Order, *In re: Investigation into Development of Electronic Interfaces for BellSouth's Operational Support Systems*, Docket No. 8354-U (April 5, 2001).

<sup>5</sup> The Florida third-party test is a more robust test than Georgia's. The Florida test examines four important areas more thoroughly than the Georgia test: performance parity, CLEC interfaces development, areas of performance measurements, and manual support systems. Performance parity provides an example of the significant differences between the two tests. In Georgia, KCI only tested two performance parity areas: Maintenance and Repair Process Evaluation (Test M&R 10 of the Mast Test Plan) and xDSL Process Parity Evaluation (Test PO&P 16 of the Supplemental Test Plan). The Florida test includes nine process parity tests the Georgia test does not: Order Flow-Through (Test TVV3); Account Management (Test PPR2); Training (Test PPR4); Provisioning Process (Test PPR9); Billing Work Center (Test PPR10); Bill Production (Test PPR11); Functional Review of Pre-Order, Ordering and Provisioning (Test TVV1); Manual Processing of Orders (PPR7); and Capacity Management. These areas go to the heart of CLECs' ability to compete, but they remain untested in Georgia.

Among the variety of areas being tested in Florida, at least five of KCI's tests focus on the accuracy of BellSouth's performance data. The data integrity test is only 13% complete. To date, the performance measures tests have yielded 9 open exceptions related to data replication, data integrity, and associated issues impacting the reliability of BellSouth's performance measures data.<sup>6</sup> Moreover, KCI's testing in Florida has produced 54 exceptions and 31 observations in areas that were not tested in the Georgia test. The Florida third-party test also has identified observations and exceptions related to billing in areas KCI had deemed resolved in Georgia. There are presently nine open exceptions and one open observation in this important area. Overall, approximately 87 exceptions currently remain open in Florida's third-party test.<sup>7</sup>

Resolution of these open exceptions in Florida will provide information that is vital to a thorough assessment of BellSouth's OSS. Postponing any Section 271 hearing until after KCI issues its final report in Florida will ultimately preserve this Commission's judicial resources and permit the Commission to make a fully informed decision regarding BellSouth's OSS performance. Under the previous schedule in Florida, the commission staff would have issued its recommendation regarding testing results in December, and the commission was expected to vote that same month. Because the test completion date has been postponed until October, it is unclear whether these dates are still accurate. Nevertheless, the benefits of waiting for completion of the more comprehensive and robust Florida test far outweigh any undue pressure that BellSouth might impose upon this Commission to rush toward a Section 271 decision at this time.

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<sup>6</sup> These nine exceptions are Exceptions 10,11,15, 22, 27, 36, 56, 78, and 81.

<sup>7</sup> KCI has issued 94 observations, 19 of which have been reclassified as exceptions. KCI has issued 78 exceptions, but three, Exceptions 19, 52 and 53, were withdrawn.

## **II. OTHER STATES IN BELL SOUTH'S REGION HAVE PUT OFF CONSIDERATION OF BELL SOUTH'S SECTION 271 APPLICATION UNTIL THE THIRD-PARTY OSS TESTS ARE COMPLETE**

### **A. Alabama**

The Alabama Public Service Commission recently adopted the position AT&T proposes here, ordering that all issues related to third-party testing would be deferred until the Georgia Public Service Commission enters a final order concerning the Georgia third-party OSS testing.<sup>8</sup> Under the Alabama's Commission's Order, within 10 days of the Georgia Commission's final order on its third-party test, the Alabama Commission will either schedule a hearing on third-party test issues or require the parties to jointly submit a proposed hearing date and procedural schedule. *See id.*

### **B. North Carolina**

The North Carolina Commission recently set its § 271 hearing for the week of October 29, 2001.<sup>9</sup> Originally, BellSouth had proposed July 16-20, 2001, for its § 271 hearing. After careful consideration, however, the North Carolina Commission determined the more prudent course in this "important and complicated" case was to defer the hearing.<sup>10</sup> The additional time permitted under the North Carolina Commission's Order is, in part, to allow further information to be developed in § 271 proceedings in other states.<sup>11</sup> As the North Carolina Commission

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<sup>8</sup> See Procedural Ruling, *In re: Petition for Approval of a Statement of Generally Available Terms and Conditions Pursuant to § 252(f) of the Telecommunications Act of 1996 and Notification of Intention to File a Petition for In-Region InterLATA Authority with the FCC Pursuant to § 271 of the Telecommunications Act of 1996*, Alabama Public Service Commission, Docket No. 25835 (July 13, 2001).

<sup>9</sup> See *In the Matter of Application of BellSouth Telecommunications, Inc., to Provide In-Region InterLATA Services Pursuant to § 271 of the Telecommunications Act of 1996*, North Carolina Utilities Commission, Docket No. P-55, Sub. 1022 (May 9, 2001) ("*North Carolina Order*") at 6.

<sup>10</sup> *See id.*

<sup>11</sup> *See id.* at 5-6.

rightly determined, “this delay should simplify the ultimate decision . . .” but would not “unreasonably delay BellSouth’s application.”<sup>12</sup>

**C. Kentucky**

Similarly, the Kentucky Public Service Commission Staff has recommended that the Kentucky § 271 hearing be held during the week of October 22, 2001. In the meantime, the Kentucky Commission has ordered BellSouth to submit performance data over the next several months.

**D. Tennessee**

On May 12, 1999, AT&T filed a petition with the Tennessee Regulatory Authority (“TRA”) to establish a third-party test of BellSouth’s OSS in Tennessee. In connection with this petition, the TRA sought information regarding the applicability of the third-party tests in other states to BellSouth’s OSS in Tennessee. BellSouth opposed AT&T’s motion on the basis that the OSS pre-ordering functions, interfaces, systems, and process used in Tennessee are the same throughout the BellSouth region. The TRA, however, identified several areas of the third-party tests that do not apply to the South Central BellSouth states. Accordingly, it ordered its own limited third-party review of the OSS testing in other states.

Differences and deficiencies identified by Tennessee’s independent audit will likely provide the South Carolina Commission relevant information to determine whether BellSouth is providing nondiscriminatory service in South Carolina. This Commission should refrain from holding its third-party test hearing until the independent TRA audit is completed.

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<sup>12</sup> *Id.* at 6.

### **III. REVIEW OF PERFORMANCE MEASURES DATA IS A CRITICAL COMPONENT OF A SECTION 271 ANALYSIS AND THIS COMMISSION SHOULD DEFER ITS AUGUST 27 HEARING UNTIL SUFFICIENT PERFORMANCE MEASURES DATA ARE AVAILABLE**

Performance measures provide a means for evaluating the level of service the Incumbent Local Exchange Carriers (“ILECs”) offer to CLECs. Early in the process of implementing the Telecommunications Act of 1996, the FCC emphasized that ILECs’ nondiscriminatory support of CLECs is critical to the ultimate development of local competition.<sup>13</sup> Whether entering the local market via interconnection, resale, or the use of unbundled network elements, CLECs depend upon BellSouth’s performance in providing service to their customers.

Performance measures are important because they provide a means of monitoring BellSouth’s provision of service to CLECs. Thus, in order for the South Carolina Commission and CLECs to evaluate whether BellSouth is providing nondiscriminatory access to all of the items on the competitive checklist in § 271 of the Act, BellSouth must be required to fully and accurately report its performance in accordance with this Commission’s Orders. Any determination made without data consistent with the performance standards this Commission may order would be improper because it is those standards, not the standards adopted by the Georgia Commission, by which BellSouth’s performance will be judged going forward. Consequently, in order for the Commission to make a credible determination on BellSouth’s performance, such determination must be based upon performance standards adopted by this Commission. Moreover, in order for the FCC to make an accurate determination as to whether BellSouth has satisfied all prerequisites to obtaining § 271 approval, the FCC must conduct an

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<sup>13</sup> See First Report and Order, *Implementation of Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 ¶315 (rel. August 8, 1996) (“*Local Competition First Report and Order*”).

evaluation based upon the performance standards that this Commission adopts to govern BellSouth's performance. South Carolina-specific performance standards and South Carolina-specific data are necessary to make a § 271 determination.

**A. BellSouth Seeks To Rely On Its Noncompliant Interim SQM for Section 271 Approval**

BellSouth is seeking § 271 relief and asking this Commission to accept performance data generated under BellSouth's purported Georgia SQM, also known as its proposed Interim SQM in South Carolina. BellSouth maintains that its SQM complies with the Georgia Public Service Commission's Order.<sup>14</sup> The reality is that BellSouth has not reported its performance in accordance with the Georgia Commission's Order.<sup>15</sup> BellSouth should be denied § 271 authority until it provides this Commission sufficient information, including CLEC-specific results, to judge whether BellSouth is in compliance with performance measures and standards adopted by this Commission.

This Commission cannot rely on BellSouth's Interim SQM because BellSouth has made numerous unauthorized modifications to measures ordered by the Georgia Commission and has failed to provide raw data for various measures. For example, BellSouth has modified the % Missed Completion Appointments, Average Completion Interval, and Jeopardy Notice Interval measures without approval from the Georgia Commission. BellSouth also has unilaterally excluded rural orders from its Held Order Interval measures and excludes non-business hours

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<sup>14</sup> See Georgia Public Service Commission Order on Supplemental Test Plan, *In re: Investigation into Development of Electronic Interfaces for BellSouth's Operational Support System*, Docket No. 8354-U, (January 12, 2000).

<sup>15</sup> In July, BellSouth provided its May 2001 performance measurements reports, the first to "comply" with the Georgia Commission's January 16 Order. Even after BellSouth made numerous corrections, the first May 2001 reports BellSouth provided CLECs and the Georgia Commission, there were 45 instances in its May Monthly State Summary Report where BellSouth indicates that data will not be available until it reports its June performance for

*(Footnote cont'd on next page)*

from the interval for partially mechanized local service requests for both the FOC Timeliness measure and Reject Interval measure. The modifications BellSouth has implemented are important because they may allow BellSouth to hide performance deficiencies from the South Carolina Commission and may prevent this Commission from relying on BellSouth's self-reported data to grant §271 relief.

Performance reporting that is not based on appropriate data is virtually meaningless and is not useful to this Commission in monitoring BellSouth's performance. Because the data in question are not reported, inappropriate exclusions have the potential to mask true performance and to hide deficient performance. Exclusions are particularly troubling when the monitored party, in this instance BellSouth, unilaterally decides what the regulator will see. The performance measures detailed in BellSouth's Interim SQM are not sufficient to measure whether BellSouth provides nondiscriminatory support.

Rescheduling the August 27 hearing until after this Commission has adopted its own performance measures and after BellSouth has provided data based on a South Carolina-specific SQM will provide the necessary data and comparisons for this Commission to determine whether BellSouth is providing nondiscriminatory access to its network.

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*(Footnote cont'd from previous page.)*

Georgia and three instances in which BellSouth cannot report data because the submetric is still under development. These problems are in addition to other significant reporting problems. *See infra* note 15.

**B. BellSouth Has Yet To Provide This Commission Sufficient Data Upon Which To Evaluate BellSouth's Checklist Compliance**

BellSouth must demonstrate nondiscriminatory access and support through empirical evidence of sufficient quality and quantity.<sup>16</sup> Thus, BellSouth must produce actual measurement results demonstrating it provides the same access and interconnection to its competitors that BellSouth provides itself. To date, BellSouth has not provided this Commission or CLECs sufficient data to make any of these determinations.

The first time BellSouth submitted any performance measures data to this Commission was approximately one month ago. On June 18, 2001, BellSouth provided this Commission with April 2001 performance data generated under its Interim SQM. BellSouth filed May data on July 25, 2001. Yet, BellSouth has not made any data available to CLECs underlying its reported results on measures for collocation or billing. Further, data is not available for all provisioning, and maintenance/repair measures. Data was not available in May 2001 for the following:

- Cooperative Acceptance Testing
- Coordinated Customer Conversions – Average Recovery Time
- Mean Time To Notify CLEC of Network Outage.

AT&T is continuing to validate the raw data omissions.

Without this data, there is no way for the Commission or CLECs to validate BellSouth's claims regarding its performance, even though each of these measures is important to CLECs seeking to compete in the local market. Indeed, when AT&T has attempted to validate BellSouth's reports using the raw data, it cannot do so for some measures. Even BellSouth

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<sup>16</sup> See Memorandum and Opinion, *In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services in Michigan*, CC Docket No. 97-298 ¶ 161, 211 (Aug. 19, 1997) ("Ameritech Michigan Order").

apparently has problems with its own data. It is not unusual for BellSouth to retract a report and then repost it on the website with different results.<sup>17</sup>

#### **IV. AT&T'S PROPOSED SCHEDULE**

Given the uncertainty of the third-party tests and related proceedings in other states, AT&T recommends that this Commission defer the hearing currently scheduled for August 27 until such time as more complete information becomes available.

#### **V. CONCLUSION**

Premature BellSouth entry into the long-distance market in South Carolina would shatter the fragile prospect for local competition and ensure that the goals of the Act are not realized by South Carolina consumers. "Congress used the promise of long distance entry as an incentive to prompt the BOCs to open their local markets to competition. Congress further recognized that, until the BOCs open their local markets, there is an unacceptable danger that they will use their market power to compete unfairly in the long distance market."<sup>18</sup> If the Commission takes that prospect away before effective competition exists, BellSouth will have every business incentive to continue to resist the opening of the local market to competition. Accordingly, this Commission should not hold hearings on BellSouth's § 271 compliance until sufficient evidence is available to properly evaluate whether BellSouth provides nondiscriminatory access to its OSS.

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<sup>17</sup> For example, BellSouth has experienced significant problems providing CLECs and the Georgia Commission performance measurement reports that comply with the GPSC's January 16 Order. Indeed BellSouth's May performance reports provided in early July, demonstrate BellSouth continues to have problems with the accuracy of its data; has not yet developed the ability to report accurately on the metrics the GPSC requires; and continues to provide performance reports that are missing data.

<sup>18</sup> See Memorandum Opinion and Order, *In the Matter of Application of BellSouth Corporation, BellSouth Telecommunications, Inc., and BellSouth Long Distance, Inc., for Provisions of In-Region, InterLATA Services in Louisiana*, 13 FCC Rcd. 20, 599 ¶ 5 (F.C.C. October 13, 1998) (No. CC 98-121, FCC 98-271) ("Second Louisiana Order").

For the foregoing reasons, AT&T urges this Commission to grant its motion to reschedule the August 27, 2001 hearing and set the hearing when more information from other states regarding third-party testing is available. Nondiscriminatory access to OSS is an integral part of the Section 271 checklist. Further, any Section 271 determination made by this Commission prior to establishing South Carolina-specific performance measures, implementing a remedy plan, and evaluating several months of South Carolina-specific data produced under the SQM this Commission adopts, would be premature. Only after these critical issues are decided can this Commission meaningfully evaluate whether BellSouth provides nondiscriminatory access to its local services.

Respectfully Submitted,

**AT&T COMMUNICATIONS OF THE  
SOUTHERN STATES, INC.**

By:



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July 27, 2001

Columbia, South Carolina

## CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that he has served the following parties with a copy of **Motion on Behalf of AT&T Communications of the Southern States, Inc. to Postpone the August 27, 2001 Hearing** in Docket No. 2001-209-C by causing a copy of same to be mailed in the United States Postal Service, first-class postage prepaid, addressed to the persons and attorneys listed below on **JULY 27, 2001**.

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